

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In Re:

NEURONTIN ANTITRUST LITIGATION

:
:
:
:
:
:
:
:
:
:

MDL Docket No. 1479

Master Civil Action No. 02-1390(FSH)

:ORDER ON INFORMAL APPLICATION

This matter having come before the Court by way of submission dated April 15, 2010, regarding the antitrust plaintiffs' request for the imposition of sanctions pursuant to Fed. R. Civ. P. 37, including striking certain denials contained in the defendant's answer in which the defendant denied engaging in off-label uses and directing that such uses have been established, preventing defendant from offering evidence contrary to plaintiffs' allegations about alleged off-sale use;

and the Court having considered the submission, claims, defenses, denials, record or proceedings, and governing law;

and for the reasons set forth in the Opinion delivered on the record on April 15, 2010;

and for good cause shown,

IT IS ON THIS 15th day of April, 2010

ORDERED that the plaintiffs' request for sanctions pursuant to Fed. R. Civ. P. 37 in the form of: (1) striking certain denials contained in the defendant's answer in which the defendant denied engaging in off-label uses; (2) directing that such uses have been established, and (3) preventing defendant from offering evidence contrary to plaintiffs' allegations about alleged off-sale use is denied;

IT IS FURTHER ORDERED that plaintiffs' request for sanctions pursuant to Fed. R. Civ. P. 37 in the form of other relief that the Court deems just and appropriate is granted as set forth herein;

IT IS FURTHER ORDERED that the defendants shall, no later than **April 30, 2010**: (1) pay the plaintiffs' attorneys' fees and costs for the March 17, 2010 deposition and the April 5, 2010 submission; and (2) produce a Rule 30(b)(6) witness to provide facts upon which it has denied off label uses. This witness shall also be prepared to provide the factual basis and explanation as to how the denials in its Answer regarding off-label uses and the marketing of the product for off label uses is consistent with its public actions, including but not limited to its guilty plea and marketing activity. The defendant shall pay the plaintiffs' attorneys fees and costs attending and conducting the deposition no later than fourteen days after the date of the deposition. Failure to produce a Rule 30(b)(6) witness prepared to testify as directed herein and in the Order dated December 10, 2010 may result in the imposition of the sanctions that plaintiffs requested in the April 5, 2010 submission; and

IT IS FURTHER ORDERED that nothing herein prevents the plaintiffs from making a motion for summary judgment on the issue of off label use.

s/Patty Shwartz
UNITED STATES MAGISTRATE JUDGE